

**CALIFORNIA COASTAL COMMISSION**

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## STAFF REPORT: CONSENT CALENDAR

**Application No.:** 6-19-1013

**Applicant:** Caulfield et al.

**Location:** 1931-2031 South Pacific Street, Oceanside, San Diego County. APNs 152-250-29, -31, -32, 34, -36, -38, -39, -40, -42, 153-259-43, 155-010-01, -02, -03, -04

**Project Description:** Maintenance to an existing permitted rock revetment consisting of relocating existing rock back onto a 660-foot long, approximately 20-foot high revetment fronting thirteen homes and one vacant lot.

**Staff Recommendation:** Approval with conditions.

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## SUMMARY OF STAFF RECOMMENDATION

The proposed development consists of repair and maintenance work to an existing revetment located along the shoreline seaward of 13 homes and one vacant property (comprised of four separate lots). The project consists of relocating existing rocks, which have become dislodged from the revetment and currently located within the sandy beach area, back onto the revetment structure. The project does not include any work to the foundation, will not increase the existing footprint of the revetment and does not include importation of any new rock. The existing revetment was originally authorized through a Commission issued Coastal Development Permit in 1973, which included a requirement that the revetment be maintained and repaired (ref. CDP No. F

0810). The proposed application implements maintenance required by the original permit. To limit impacts to public access and recreation associated with future damage to the revetment, **Special Condition No. 2** requires completion of a long-term monitoring plan for the revetment to monitor and identify damage or changes to the revetment such that repair and maintenance is completed in a timely manner. **Special Condition Nos. 1 (Final Plans), 5 (As-Built Plans) and 7 (Project Changes)** require the development to be undertaken consistent with the approval project plans. **Special Condition No. 4** prohibits any future encroachment of the revetment seaward of the approved location. In order to ensure no impacts to coastal resources occur during construction, **Special Condition No. 8** require the applicant to submit a Construction Pollution Prevention Plan identifying appropriate BMPs to minimize potential impacts from construction-related pollutants. Also, due to the site's proximity to the ocean and potential for future flooding, **Special Condition No. 6** requires the applicant to acknowledge the hazards present on-site, assume the risk of such hazards, and accept full liability for developing in a hazardous location. Finally, **Special Condition No. 9** requires any Export Material/Construction Debris to be located outside the Coastal Zone, or authorized through a separate Coastal Development Permit.

Commission staff recommends that the Commission **APPROVE** coastal development permit application 6-19-1013, as conditioned. The motion is on page 4.

The standard of review is Chapter 3 of the Coastal Act.

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## EXHIBITS

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## I. MOTION AND RESOLUTION

### Motion:

I move that the Commission **approve** the coastal development permit applications included on the consent calendar in accordance with the staff recommendations.

Staff recommends a **YES** vote. Passage of this motion will result in approval of all the permits included on the consent calendar. The motion passes only by affirmative vote of a majority of Commissioners present.

## II. STANDARD CONDITIONS

1. **Notice of Receipt and Acknowledgment.** The permit is not valid and development shall not commence until a copy of the permit, signed by the applicant or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. **Expiration.** If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. **Interpretation.** Any questions of intent of interpretation of any condition will be resolved by the Executive Director or the Commission.
4. **Assignment.** The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
5. **Terms and Conditions Run with the Land.** These terms and conditions shall be perpetual, and it is the intention of the Commission and the applicant to bind all future owners and possessors of the subject property to the terms and conditions.

## III. SPECIAL CONDITIONS

1. **Final Plans.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicants shall submit to the Executive Director for review and written approval, final plans for the permitted development. Said plans shall be in substantial conformance with the plans submitted by applicant dated June 11, 2020. Final plans shall specifically note that no importation of new rock to the site is authorized.

The permittee shall undertake development in accordance with the approved final plans. Any proposed changes to the approved final plans shall be reported to the Executive Director. No changes to the approved final plans shall occur without an

amendment to the coastal development permit unless the Executive Director determines that no amendment is legally necessary.

2. **Long-Term Monitoring Program.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit for review and written approval of the Executive Director, a long-term monitoring plan for the existing and approved shoreline protection. The purpose of the plan is to monitor and identify damage or changes to the revetment such that repair and maintenance is completed in a timely manner to avoid further encroachment of the revetment on the beach. The monitoring plan shall incorporate, but not be limited to the following:

- (a) An evaluation of the current condition and performance of the revetment, addressing any migration or movement of rock which may have occurred on the site and any significant weathering or damage to the revetment that may adversely impact its future performance;
- (b) Measurements taken from the benchmarks established in the survey as required in Special Condition No. 5 of CDP #6-19-1013 to determine settling or seaward movement of the revetment. Changes in the beach profile fronting the site shall be noted and the potential impact of these changes on the effectiveness of the revetment evaluated;
- (c) Recommendations on any necessary maintenance needs, changes, or modifications to the revetment to assure its continued function and to assure no encroachment beyond the permitted toe; and
- (d) An agreement that the permittee shall apply for a coastal development permit within 90 days of submission of the report for any necessary maintenance, repair, changes or modifications to the project recommended by the report that require a coastal development permit and to implement the repairs, changes, etc. approved in any such permit.

The above-cited monitoring information shall be summarized in a report, prepared by a licensed engineer familiar with shoreline processes, submitted to the Executive Director for review and written approval. The report shall be submitted to the Executive Director and the City of Oceanside Engineering Department yearly after each winter storm season and prior to the 1st of May, starting with May 1, 2021 for the first 5 years after completion of construction. After the completion of five (5) annual reports monitoring will be lessened to once every five (5) years, beginning May 1, 2025. Monitoring once every five (5) years shall continue throughout the life of the revetment or until the revetment is removed or replaced under a separate coastal development permit.

The permittee shall undertake development in accordance with the approved monitoring program. Any proposed changes to the approved program shall be reported to the Executive Director. No changes to the program shall occur without a

Coastal Commission approved amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

3. **Future Maintenance.** The applicant shall maintain the existing revetment in its approved state. Any change in the design of the revetment or future additions/reinforcement of the revetment beyond exempt maintenance as defined in Section 13252 of Title 14 of the California Code of Regulations to restore the structure to its original condition will require a coastal development permit. However, in all cases, if after inspection, it is apparent that repair and maintenance is necessary, the applicant shall contact the Executive Director to determine whether a coastal development permit or an amendment to this permit is legally required, and, if required, shall subsequently apply for a coastal development permit or permit amendment for the required maintenance.
4. **No Future Seaward Extension of Shoreline Protective Devices.** By acceptance of this permit, the applicant agrees, on behalf of itself and all successors and assigns, that no future repair or maintenance, enhancement, reinforcement, or any other activity affecting the existing shoreline protective device, shall be undertaken if such activity extends the footprint seaward of the existing device. By acceptance of this permit, the applicant waives, on behalf of itself and all successors and assigns, any rights to such activity that may exist under Public Resources Code Section 30235.
5. **As-Built Plans.** Within 60 days of completion of the project, or within such additional time as the Executive Director may grant for good cause, the applicant shall submit as-built plans for the approved revetment and associated structures and submit certification by a registered civil engineer, acceptable to the Executive Director, verifying the revetment and associated structures have been constructed in conformance with the approved plans for the project. The plans shall identify at least three permanent benchmarks from fixed reference point(s) per lot from which the elevation and seaward limit of the revetment can be referenced for measurements in the future.
6. **Assumption of Risk, Waiver of Liability and Indemnity Agreement.** By acceptance of this permit, the applicant acknowledges and agrees (i) that the site may be subject to hazards from storm waves, flooding, and erosion; (ii) to assume the risks to the applicant and the property that is the subject of this permit of injury and damage from such hazards in connection with this permitted development; (iii) to unconditionally waive any claim of damage or liability against the Commission, its officers, agents, and employees for injury or damage from such hazards; and (iv) to indemnify and hold harmless the Commission, its officers, agents, and employees with respect to the Commission's approval of the project against any and all liability, claims, demands, damages, costs (including costs and fees incurred in defense of such claims), expenses, and amounts paid in settlement arising from any injury or damage due to such hazards.

7. **Project Modifications.** Only that work specifically described in this permit is authorized. Any additional work, including but not limited to the importation of new rock, requires separate authorization from the Commission or Executive Director, as appropriate. If, during construction, site conditions warrant changes to the project, the San Diego District office of the Coastal Commission shall be contacted immediately and before any changes are made to the project in the field. No changes to the project shall occur without an amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.
  
8. **Final Construction Plans.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicants shall submit to the Executive Director for review and written approval, final construction plans for the approved development. Said plans shall be in substantial conformance with the plans submitted applicant dated June 11, 2020, and shall incorporate but not be limited to the following construction methods and responsibilities:
  - (a) All equipment shall be removed from the beach areas overnight and during any tidal condition that may inundate work areas. The permittee may not store any construction materials or waste where it will be or could potentially be subject to wave erosion and dispersion. In addition, no machinery may be placed, stored or otherwise located in the intertidal zone at any time, except for the minimum necessary to perform the approved maintenance. Construction equipment may not be washed on the beach or public parking lots or access roads
  - (b) Construction staging and access corridors shall not impede public access to or along the shoreline, to the maximum extent feasible, and the staging site and access corridors shall be removed and restored immediately upon completion of construction. No public parking spaces shall be used for staging or storage of equipment.
  - (c) Spill prevention measures for construction equipment shall be identified and implemented as necessary. Fueling and maintenance of construction equipment and vehicles shall be conducted off site if feasible. Any fueling and maintenance of mobile equipment conducted on site shall not take place on the beach, and shall take place at a designated area located at least 50 feet from coastal waters, drainage courses, and storm drain inlets, if feasible (unless those inlets are blocked to protect against fuel spills). The fueling and maintenance area shall be designed to fully contain any spills of fuel, oil, or other contaminants. Equipment that cannot be feasibly relocated to a designated fueling and maintenance area (such as cranes) may be fueled and maintained in other areas of the site, provided that procedures are implemented to fully contain any potential spills.
  - (d) No work shall occur between Memorial Day and Labor Day of any year.

The permittee shall undertake the development in accordance with the approved plans. Any proposed changes to the approved plans shall be reported to the

Executive Director. No changes to the plans shall occur without a Coastal Commission approved amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

9. **Disposal of Export Material/Construction Debris.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall identify the location for the disposal of any export material and construction debris. If the site is located within the coastal zone, a separate coastal development permit or permit amendment shall first be obtained from the California Coastal Commission or its successors in interest before disposal takes place.

## IV. FINDINGS AND DECLARATIONS

### A. Project Description and Background

#### Project Description

The proposed development consists of maintenance to an existing 660-foot long rock revetment located in front of 13 existing homes and one vacant lot. The original construction of the revetment was authorized by the Commission in 1973 through issuance of Coastal Development Permit No. F0810. Condition No. 11 of the permit required that, “upon disrepair to the walls’ construction, any portion thereof must be recovered and replaced so as to accomplish continual maintenance.” The applicant has indicated that, as a result of winter storms over the last few years, a number of rocks have become dislodged from the revetment. The proposed development will relocate the dislodged rocks from the beach back within the existing revetment footprint. The proposed development does not include any foundational work, will not increase the footprint of the revetment, and does not proposed importation of any new rock.

The existing revetment was originally authorized through a Commission issued Coastal Development Permit in 1973 (ref. CDP No. F 0810). Special Condition No. 11 of that permit included the following condition:

11. That upon disrepair to the walls’ construction, any portion thereof must be recovered and replaced so as to accomplish continued maintenance...

The proposed application implements maintenance required by the original permit. To limit impacts to public access and recreation associated with future damage to the revetment, **Special Condition No. 2** requires completion of a long-term monitoring plan for the revetment to monitor and identify damage or changes to the revetment such that repair and maintenance is completed in a timely manner. The condition also requires measuring the scope and extent of the approved revetment to establish the approved limits of the protection. **Special Condition Nos. 1 (Final Plans), 5 (As-Built Plans) and 7 (Project Changes)** require the development to be undertaken consistent with the approval project plans. **Special Condition No. 4** prohibits any future encroachment of the revetment seaward of the approved location. In order to ensure no impacts to coastal resources occur during construction, **Special Condition No. 8** require the

applicant to submit a Construction Pollution Prevention Plan identifying appropriate BMPs to minimize potential impacts from construction-related pollutants. Also, due to the site's proximity to the ocean and potential for future flooding, **Special Condition No. 6** requires the applicant to acknowledge the hazards present on-site, assume the risk of such hazards, and accept full liability for developing in a hazardous location. Finally, **Special Condition No. 9** requires any Export Material/Construction Debris to be located outside the Coastal Zone, or authorized through a separate Coastal Development Permit.

## Background

Much of Oceanside's shoreline is protected by rock revetment. In 2017, it came to the attention of Commission staff that the City of Oceanside's Building Department had been issuing administrative exemptions to allow various types of work related to shoreline protective devices located throughout the City's shorefront to take place. This process did not include review through the City's Planning Department, and the City did not require the work be approved through a coastal development permit. City staff indicated that the work approved ranged from minimal repairs not requiring mechanized equipment, to development that included substantial alteration to the foundation of revetments and importation of new rock. Additionally, the legal status of the revetments was not reviewed through this process and coastal permit jurisdiction was not established. Thus, it appears that the City may have authorized maintenance work on unpermitted shoreline protective devices located, partially or wholly, within the Commission's jurisdiction.

City staff have indicated that they believe the policies of the certified LCP exempt maintenance activities that include importation of new rock as long as the total amount imported is not greater than 20% of the existing revetment. In March of this year, Commission staff provided a letter to the City identifying concerns with this approach and the City's interpretation of the LCP and recommending that permit history and jurisdiction be established prior to approval of any development on the shoreline. While discussions continue between City and Coastal staffs, both have agreed that any proposed work to shoreline protection in the City should be informally reviewed by both City and Coastal staffs prior to any work occurring in order to determine jurisdiction and permitting requirements.

As a result of these ongoing discussions, the subject project was reviewed by the City and the Commission and it was determined that subject development is located within the Commission's permit jurisdiction and was authorized through a Commission-issued CDP. In this case, the existing revetment is permitted, future maintenance activities were identified as a condition of the CDP and no importation of any new rock is proposed. Therefore, the development proposed does not raise the types of concerns identified in staff's March 2020 letter.

The site is within an area of original jurisdiction where the Chapter 3 policies of the Coastal Act are the standard of review with the City's certified LCP used as guidance.

## **B. Biological Resources**

Coastal Act policies 30240 and 30251 restrict the alteration of natural landforms and protects sensitive habitats. Section 30231 of the Coastal Act requires that coastal waters are protected, and runoff minimized.

The proposed development will not have an adverse impact on any sensitive habitat, and, as conditioned, will not result in erosion or adverse impacts to water quality, as adequate temporary erosion controls (construction BMPs) and spill prevention measures will be provided. Thus, the project is consistent with the resource protection policies of Chapter 3 of the Coastal Act.

## **C. Public Access**

As conditioned, the proposed development will not have an adverse impact on public access to the coast or to nearby recreational facilities. The proposed development includes only the repair and maintenance of any existing and permitted rock revetment. As proposed the maintenance will not result in any seaward encroachment of the existing revetment and will not import any new rock. As proposed, the rocks that have been dislodged from the revetment and occupying beach area will be relocated back within the existing revetment footprint. Thus, it is likely that the development will increase beach area in front of the revetment and improve public access.

The City's LCP includes a requirement that new public beach access shall be dedicated laterally along the sandy beach in conjunction with restoration of the beach or new private development, whichever occurs first. Currently, no lateral access easement exists for any of the existing lots. However, the development proposed at this time has been determined to consist of repair and maintenance that was previously acknowledged and required through Special Condition No. 11 of the original Coastal Development Permit (ref. CDP No. F 0810). Therefore, the requirement for a new lateral access need not apply in this case. However, in the future, should any of the homes within the project site propose new development, redevelopment of existing structures, or significantly alter the revetment, a new lateral access easement should be required at that time. Therefore, as conditioned, the proposed development conforms to Sections 30210 through 30214, Sections 30220 through 30224, Section 30252 and Section 30604(c) of the Coastal Act.

## **D. Local Coastal Planning**

The subject site is located in an area of original jurisdiction, where the Commission retains permanent permit authority and Chapter 3 of the Coastal Act remains the legal standard of review. As conditioned, the proposed development is consistent with Chapter 3 of the Coastal Act and the certified LCP. Approval of the project, as conditioned, will not prejudice the ability of the City of Oceanside to continue to implement its certified LCP.

## **E. California Environmental Quality Act**

Section 13096 of the Commission's Code of Regulations requires Commission approval of Coastal Development Permits to be supported by a finding showing the permit, as conditioned, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect which the activity may have on the environment. The City of Oceanside determined that the proposed development qualifies as repair to an existing facility and is categorically exempt under Class I Item (d) as "restoration or rehabilitation of deteriorated or damaged structures, facilities, or mechanical equipment to meet current standards of public health and safety, unless it is determined that the damage was substantial and resulted from an environmental hazard such as earthquake, landslide, or flood." (Cal. Code of Regs., tit. 14, sec. 15301).

The proposed project has been conditioned in order to be found consistent with the Chapter 3 policies of the Coastal Act. Mitigation measures, including conditions addressing construction phase BMPs, staging and storage requirements, limits any future seaward encroachment of the revetment and requires development of a long-term monitoring plan which will minimize all adverse environmental impacts. As conditioned, there are no feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse impact which the activity may have on the environment. Therefore, the Commission finds that the proposed project is the least environmentally-damaging feasible alternative and can be found consistent with the requirements of the Coastal Act to conform to CEQA.

APPENDIX A – Substantive File Documents

- City of Oceanside Local Coastal Program
- Coastal Commission CDP No. F0810